Appendix A

Section 6328, Oregon Laws. Foreign or Alien Insurance Companies

(1) *May Obtain License*—A foreign or alien insurance company may be authorized or licensed to do business in this state when it shall have complied with the following requirements:

(2) *Certified Copy of Charter, etc., to Be Filed*—It shall file with the insurance commissioner a certified copy of its charter, articles of incorporation or deed of settlement and a statement of its financial condition and business in the United States in such form and detail as he may require, signed and sworn to by at least two of its executive officers or the United States manager.

(3) *Amount of Capital Stock Required; Deposit of Securities by Foreign Life Insurance Company*—It shall satisfy the insurance commissioner that it is fully and legally organized under the laws of its state or government to do the business it proposes to transact; that it has a fully paid-up capital or a deposit capital in the United States over all liabilities therein, equal to two hundred thousand dollars ($200,000), with a surplus of not less than one hundred thousand dollars ($100,000), except as otherwise provided in this act; provided, however, that no requirement of capital or surplus herein shall apply to life insurance companies possessing assets amounting to one million dollars ($1,000,000) or more.

(4) *Deposit of Securities Required*—When required by the provisions of this act, it shall deposit with the insurance commissioner, in his official capacity, securities of the amount and character required of similar companies incorporated under the laws of this state, or in lieu thereof, unless such deposit is a special deposit required by this act to cover liabilities in this state only, shall furnish a certificate of deposit from the state official having custody of the securities showing to the satisfaction of said commissioner that it has securities to an amount not less than that required by this act deposited with the insurance commissioner, state treasurer or other proper official of some one of the states of the United States

in which it is licensed to do business, and that the same are held for the benefit and security of the policyholders of such company in the United States, which certificate shall be renewed whenever required by the insurance commissioner.

(5) *Certificate of Authority to Do Business*—Upon compliance with the requirements of this section and all other requirements imposed on such company by existing laws and upon payment of the fees and charges imposed by law, the commissioner shall issue to it a certificate of authority to transact business in this state, which on thirty days' notice may be revoked if the insurance commissioner shall find that its condition in the United States is unsound or its surplus of admitted assets in the United States over all its policy liabilities, pertaining to the United States business, as defined in this act, has not been maintained and is less than that required herein.

(6) *Granting Certificate of Authority, Domestic Company*—A domestic insurance company shall be granted a certificate of authority to transact any kind or class of insurance permitted by the provisions of the insurance laws of this state and provided for in its articles of incorporation upon its compliance with all the laws of this state and the regulations of the insurance department relating to such companies and the payment of the fees and charges imposed by law, which certificate may be revoked on thirty days' notice by the insurance commissioner or he may suspend same temporarily if he deems necessary or advisable. Cause for revocation or suspension of such certificate shall exist if its capital is found to be impaired or the required surplus has not been maintained or if its transactions have been found to be in violation of the law.

(7) *Policy Forms and Rating Schedules Must Be Filed*—Every such insurance company or other insurer, excepting a marine insurance company, before it shall receive a license or a renewal of its license to transact the business of making insurance as an insurer in this state, shall file in the office of the insurance commissioner its rating schedules and policy forms to be used in the transaction of its business in this state. Every such company and its agents shall observe its rating schedules and shall not deviate therefrom when making insur-

ance until amended or corrected rating schedules shall have been filed in the office of the insurance commissioner, and such company or its agents shall not discriminate between risks of essentially the same hazard in its application of its rates for insurance; provided, that nothing herein contained shall prevent any mutual insurance company or any inter-insurance or reciprocal insurance exchange from making return of unabsorbed premiums to members at the end of the policy period. Acceptance of the schedule of a rating bureau as provided in subdivision 8 of section 6389, Oregon Laws, by a company which is a member of such bureau, shall be deemed a compliance with this act as to the filing of rating schedules. [L. 1917, c. 203, § 3-b, pp. 318, 319. Amended, L. 1921, c. 155, p. 304.]

Section 6437, Oregon Laws. Surety Companies

(1) *Conditions Under Which They May Do Business; Annual License Fee*—A surety company with a paid-up capital of $250,000 and having a surplus of $100,000, incorporated under the laws of any state of the United States other than the state of Oregon, either solely or among other things for the purpose of transacting business as surety on obligations of persons or corporations, may transact such surety business in this state upon complying with the provisions of this act and not otherwise. Every such surety company must show to the insurance commissioner of this state that it is possessed of the capital and surplus required by this section, and shall pay to such commissioner the sum of $100 annually in advance for a license to transact such surety business in this state. If such surety company is engaged in any other business it shall pay fees in addition to the above license for the license or licenses required by law for the transaction of such other insurance business. Any surety company organized under the laws of this state having a paid-up capital of not less than $100,000, and a surplus of $50,000, and having its principal office within the state of Oregon, organized either solely, or among other things, for the purpose of transacting business as surety on obligations of persons or corporations, may, upon showing to the insurance commissioner of this state that it is possessed of the capital and surplus required by this section

and that all of such capital is in the actual possession of said company and unimpaired, be accepted, as shall likewise foreign surety companies, which shall comply fully with the above requirements, as sole surety on all bonds, undertakings, recognizances and obligations required by law, or by charter, ordinance, rules, regulations of any municipality, board, body, organization or public officer.

(2) *Amount of Deposit Required*—No foreign insurance company transacting the business of fidelity and surety insurance shall be granted a certificate of authority or the renewal of its annual license, to transact such insurance business in this state, until it has deposited with the treasurer of this state money or bonds of the United States or this state, or interest paying bonds when they are at or above par of any other state of the United States, or the bonds of any county or municipality of this or any other state of the United States, to the actual par and market value of not less than twenty-five thousand dollars ($25,000).

(3) *Deposit to Be Held in Trust for Policyholders; Withdrawal of Securities*—The said money or bonds so deposited with the treasurer of [this] state shall be held in trust for all holders of the obligations of such insurance company, to remain with said treasurer in trust, to answer any default of said company as surety upon any such obligation established by final judgment upon which execution may lawfully be issued against said company; such company, however, at all times shall have the right to collect the interest, dividends and profits upon such securities, and from time to time to withdraw such securities or portions thereof, substituting therefor others of equally good character and value, to the satisfaction of said commissioner, and such securities shall not be sold under any process against such company until after forty (40) days' notice to said company, specifying the date, place and manner of such sale, and the process under which and the purpose for which it is to be made, accompanied by a copy of such process. The state of Oregon shall be held responsible for the safety of all deposits made under the provisions of this section. Such company shall not be permitted to withdraw from the state treasurer such deposit of money or bonds for

a period of one (1) year after discontinuing business within this state, or [nor] while any suit is pending or any judgment against said company in this state shall remain unpaid. Said deposit shall at all times be maintained at said sum of twenty-five thousand dollars ($25,000) or more, and for failure for a period of forty (40) days after notice by the insurance commissioner given by registered letter addressed to the president of said company at its home office to replenish and so maintain the same, the authority of said company to do business in this state shall be revoked by the insurance commissioner.

(4) *State Treasurer to Pay Loss Out of Deposit When Company Fails to Satisfy Judgment*—Should any such company named in this act fail or refuse to pay any loss by it incurred in this state within sixty (60) days after its liability thereupon shall have been by suit finally determined, upon satisfactory proof, to the treasurer of this state, of such liability and of its nonpayment said treasurer shall, out of the deposits so made with him, as by this act provided, pay said loss, and when he shall have done so he shall at once certify to the insurance commissioner the fact of such default on the part of said company, whereupon said commissioner shall forthwith revoke the authority granted to such company and cancel its license to transact business in this state; provided, that such payment shall not operate to release the company from payment of any balance which it still may owe after such payment by the treasurer of this state has been made. [L. 1917, c. 203, pp. 388-390.]

Section 6438, Oregon Laws. Requirements to be Complied by Surety Company

(1) *Requirements in General*—No surety company shall directly or indirectly transact business in this state until it has complied with the requirements of every law of this state applicable to such company, including the following requirements: It must be authorized, under its charter and under the laws of the state where it is incorporated, to become surety upon a bond, undertaking, obligation, recognizance, or guaranty; it must file with the insurance department a certified copy of its articles of incorporation, and a written application

for authority to do business under this act; it must also, if it is not incorporated under the laws of this state, immediately after this act goes into effect, and on or before the renewal or issuing of its license, appoint a resident general agent on whom legal service, if any necessary, may be made; such power of attorney shall be filed with the insurance department and shall stipulate and agree on the part of the company that any legal process against the company which is served on said attorney shall be of the same legal force and validity as if served on the company, and that the authority shall continue in force so long as any liability remains outstanding in this state.

(2) *Foreign Company to Show Compliance With Requirements of Federal Government*—No foreign or alien insurance company, transacting the business of surety and fidelity insurance, shall be authorized to transact such business in this state except during such time as it shall comply with all the requirements of the federal government relative to such company, and hold unrevoked a certificate of the secretary of the treasury of the United States, showing that such company is qualified to write bonds for the federal government. All such companies doing business in this state shall file quarterly a certified copy of the certificate from the secretary of the treasury showing such qualification; provided, that no surety company doing business in this state shall assume a liability on any one risk in an amount greater than ten (10) per cent of its capital and surplus, as determined by the United States treasury department standard, unless the same shall be reinsured in some other solvent company in such an amount as shall reduce its liability on said risk to ten (10) per cent of its capital and surplus; provided further, that any company failing or refusing to comply with all the provisions of this section, shall be disqualified from doing business in this state, and its license shall be revoked by the insurance commissioner.

(3) *Companies Authorized to Make Agreements for Taking Collateral Security, and the Withdrawing of Funds by Receivers, Trustees, Executors, etc.*—It shall be lawful for any company engaged in the surety business to contract for and to receive and hold on deposit and in trust, as collateral, security on any contract of guaranty or suretyship executed

by it, any property of any kind, and to manage, realize on, and dispose of, the property so received and held on deposit as may be agreed to between such company or corporation and the person, partnership, association or corporation making such deposits; and it shall also be lawful for any receiver, assignee, guardian, conservator, trustee, executor, administrator, or other fiduciary or party from whom a contract of guaranty or suretyship is by law required or permitted to agree and arrange with such a company or corporation for the deposit for safe-keeping of any or all moneys, assets and other property for which he or it is or may be responsible with a bank, savings bank, safe deposit or trust company authorized by law to do business as such in such manner as to prevent the withdrawal or alienation of such money, assets or other property, or any part thereof, without the written consent of such surety or sureties, or an order of the court of competent jurisdiction or a judge thereof, made on such notice to such company or corporation as the court or judge may direct; and generally, it shall be lawful for such a company or corporation to enter into any contract of indemnity or security with any person, partnership, association or corporation; provided, that such contract is not otherwise prohibited by law or against public policy.

(4) *May Underwrite the Bonds of Public Officers; Justification of Surety Company*—Whenever any bond, undertaking, recognizance, or other obligation is or may hereafter be, by law, or the charter, ordinance, rules, or regulations of any municipality, board, body, organization, court, judge, or public officer, required or permitted to be made, given, tendered, or filed with surety or sureties, and whenever the performance of any act, duty, or obligation, or the refraining from any act is or may hereafter be required or permitted to be guaranteed, such bond, undertaking, obligation, recognizance, or guaranty may be executed by a surety company qualified to transact a surety business in this state, and holding a license from the insurance commissioner to make such insurance, and such execution by such company of such bond, undertaking, obligation, recognizance, or guaranty, shall be in all respects a full and complete compliance with every requirement of every law,

charter, ordinance, rule, or regulation that such bond, undertaking, obligation, recognizance, or guaranty shall be executed by one surety, or by one or more sureties, or that such sureties shall be residents or householders, or freeholders, or either or both, or possess any other qualification; and all courts, judges, heads of departments, boards, bodies, municipalities, and public officers of every character, shall accept and treat such bond, undertaking, obligation, recognization, or guaranty, when so executed by such company, as conforming to and fully and completely complying with every such requirement of every such law, charter, ordinance, rule or regulation. A surety company may be required to justify as surety; provided, that it shall be sufficient justification for such surety company when examined as to its qualifications to exhibit the certificate of authority issued to it by the insurance commissioner or a certified copy of same.

(5) *Expense of Bonds May Be Allowed by Court*—Any receiver, assignee, guardian, trustee, executor, administrator, or other fiduciary, required by law or the order of any court or judge to give a bond or other obligation as such, may include, as a part of the lawful expense of executing his trust, such reasonable sum paid a company for becoming his surety on such bond as may be allowed by the courts in which, or a judge before whom, he is required to account, not exceeding 1 per centum per annum on account of such bond; and in all actions and proceedings a party entitled to recover disbursements therein shall be allowed and may tax and recover such sum paid a person or company for executing any bond, recognizance, undertaking, stipulation, or other obligation therein, not exceeding, however, 1 per cent on the amount of such bond, recognizance, undertaking, stipulation or other obligation during each year the same has been in force.

(6) *Cost of Public Official's Bond, How Paid*—Any state, county or municipal officer or officer of any school district, public board or public commission within the state, or the deputy or deputies employed in the office of any such official, who is, or may be, required by law, ordinance, regulation, or public policy, to give a bond for the faithful performance of his duties, shall be allowed such reasonable sum paid a surety

company for becoming surety on his bond, not exceeding one-half of 1 per centum per annum on account of such bond; and such premium shall be paid out of the proper state, county, municipal, district, board or commission funds.

(7) *Surety Company Executing Bond Estopped to Deny Corporate Existence*—Any surety company which shall execute any bond or undertaking, under the provisions of this act, shall be estopped, in any proceeding, to deny its corporate power to execute such bond or undertaking or to assume such liability, and all such bonds or undertakings shall in any action pleading such defenses be construed by the rules applicable to contracts of insurance and indemnity. [L. 1917, c. 203, pp. 390-393.]